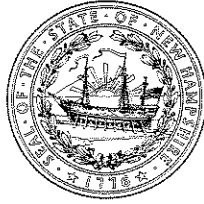


**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

KELLY A. AYOTTE
ATTORNEY GENERAL



MICHAEL A. DELANEY
DEPUTY ATTORNEY GENERAL

June 10, 2005

Section 5 Submission

Chief, Voting Section
Civil Rights Division
Room 7254 – NWB
Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20006

Re: Submission Under Section 5 of the Voting Rights Act for:

New Hampshire Revised Statute Annotated ("RSA") 655:14-b, a STATUTE related to the form of a candidate's name on the ballot, most recently amended by Laws of 2005 Chapter 22 and previously amended by the chapters cited below.

Dear Voting Section Chief:

Pursuant to 42 U.S.C. § 1973 (c), the State of New Hampshire, through the Office of the New Hampshire Attorney General, hereby submits RSA 655:14-b, a STATUTE related to the form of a candidate's name on the ballot, most recently amended by Laws of 2005 Chapter 22 and previously amended by the chapters cited below.

SUBMISSION

In accordance with 28 C.F.R. § 51.27, the submission is as follows:

- a) Chapter 22 (2005) amending RSA 655:14-b is attached (Exhibit 655:14-b A)
 - 1. Chapter 151 (2003) amending RSA 655:14-b is attached (Exhibit 655:14-b B)

2. Chapter 312 (1989) enacting RSA 655:14-b is attached (Exhibit 655:4-b C)
- b) Chapter 312 (1989) enacting RSA 655:14-b is attached (Exhibit 655:4-b C)
- c) The changes made by amendments to RSA 655:14-b are as follows:
 1. Chapter 22 (2005) inserts at the ends of sections I and II the following: *“or, if the nickname is not customarily related to the candidate’s given name, the candidate shall submit clear and convincing evidence that the candidate has been known by the nickname for at least the 5 years immediately preceding the time of filing. If deemed sufficient by the appropriate official, 3 affidavits from voters in the district who are not related to the candidate stating that the candidate has been known by the nickname for at least 5 years may constitute clear and convincing evidence. Nicknames shall be limited to one word, except for 2-word nicknames customarily related to the candidate’s given name. No candidate may designate a nickname that implies that the candidate is some other person, that constitutes a slogan or otherwise associates the candidate with a cause or issue, or that has an offensive or profane meaning.”*
 2. Chapter 22 (2005) also inserts gender neutral phrases such as *“or her”* and *“the candidate”* where appropriate.
 3. Chapter 151 (2003) amends the RSA reference at the end of paragraph IV, replacing *“655:6-b”* with *“665:9”*
 4. Chapter 312 (1989) enacts RSA 655:14-b
- d) This submission is made by: Senior Assistant Attorney General Orville B. Fitch II, 33 Capitol Street, Concord, New Hampshire 03301, Phone: (603) 271-1238.
- e) The submitting authority is New Hampshire Attorney General, Kelly A. Ayotte for the State of New Hampshire.
- f) Not applicable.
- g) The changes for which pre-clearance is sought were made by a decision of the New Hampshire General Court (Legislature).

- h) In accordance with Amendment X of the U.S. Constitution, the New Hampshire General Court, the State's legislature, acting pursuant to the New Hampshire Constitution Part Second, Article 2, granting supreme legislative power within the state to the House and Senate, who with right to negate each other are granted power to make law through Part Second, Article 5. Additional authority regarding election law is vested in Part First, Article 11.

The legislature through a bicameral process passed law to create Chapter 22 (Exhibit 655:14-b A) and each of the other chapter laws cited. The Laws of 2005, Chapter 22 was signed into law (by the Governor) on May 10, 2005, pursuant to New Hampshire Constitution Part Second, Article 44.

- i) Adoption dates:

1. Chapter 22 (2005) adopted May 10, 2005
2. Chapter 151 (2003) adopted June 17, 2003
3. Chapter 312 (1989) adopted May 29 1989

- j) Effective dates:

1. Chapter 22 (2005) effective July 9, 2005
2. Chapter 151 (2003) effective January 1, 2004
3. Chapter 312 (1989) effective July 28, 1989

- k) The changes made by Laws of 2005, Chapter 22 have not been enforced. The changes made by the laws of 2003, Chapter 151 and by laws of 1989, Chapter 312 have been enforced.

- l) The changes affect the entire State of New Hampshire.

- m) The purpose for the changes are as follows:

1. The purpose of the Chapter 22 (2005) change is to permit candidates to have nicknames by which they are known in the community printed on ballots.
2. The purpose of the Chapter 151 (2003) change was to update the RSA reference as to not render this section ineffective or confusing by having an incorrect RSA reference contained.

3. The purpose of Chapter 312 (1989) was to enact RSA 655:14-b,:
 - a. To require candidates on their declaration of candidacy or declaration of intent forms to specify how they want their name printed on the ballot.
 - b. To limit the use of nicknames on ballots to those customarily related to the candidates given name.
 - c. To require candidates to use the same name on each declaration of candidacy or intent.
 - d. To establish that a candidate whose designated nickname is rejected may file an administrative appeal with the Ballot Law Commission.
- n) These changes do not negatively target any protected class under section 5 of the Voting Rights Act of 1965. *42 U.S.C. 1973c*. They are expected to have neutral impact and do not meet the test of retrogression defined in *Reno v. Bossier Parish Sch. Bd*, 520 U.S. 471, 478 (1997). “(T)he ability of minority groups...to elect their choices to office” will not be diminished. *Beer v. U.S.*, 425 U.S. 130, 141 (1976).
- o) None known.
- p) This submission requests preclearance for all changes to election law imposed by RSA 655:14-B, starting with its initial adoption in 1989. Prior to 1989 RSA 655:14 imposed general requirements for filing for office, RSA 655:14-B made explicit that the name entered on the declaration of candidacy or declaration of intent forms would be the name used on the ballot and for the first time imposed explicit limits on the use of nicknames.
- q) Not applicable as this is not a redistricting plan.
- r) Exhibit 655:14-b D is a copy of a Press Release of this submission, its availability, and inviting comment to federal Department of Justice.

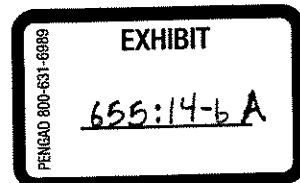
I expect the foregoing information is sufficient to enable the United States Attorney General to make the required determination pursuant to Section 5 of the Voting Rights Act. If further information is required or would be helpful, please contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Orville B. Fitch II", written over the typed name.

Orville B. Fitch II
Senior Assistant Attorney General
Civil Bureau
(603) 271-1238
bud.fitch@doj.nh.gov

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CHAPTER 22

HB 171 – FINAL VERSION

9Feb2005... 0096h

2005 SESSION

05-0335

03/09

HOUSE BILL **171**

AN ACT relative to nicknames on ballots.

SPONSORS: Rep. Marshall Quandt, Rock 13; Rep. Matthew Quandt, Rock 13; Rep. Soltani, Merr 8

COMMITTEE: Election Law

ANALYSIS

This bill permits candidates to have nicknames by which they are known in the community printed on ballots.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struckthrough.]~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

9Feb2005... 0096h

05-0335

03/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Five

AN ACT relative to nicknames on ballots.

Be it Enacted by the Senate and House of Representatives in General Court convened:

22:1 Form of Candidate's Name on Ballot; Nicknames. Amend RSA 655:14-b, I-II to read as follows:

I. Every candidate for state or federal office who intends to have his ***or her*** name printed upon the ballot of any party for a primary shall designate in ~~[his]~~ ***the*** declaration of candidacy, or on ~~[his]~~ ***the*** primary petitions and assents to candidacy, the form in which ~~[his]~~ ***the candidate's*** name shall be printed on the ballot. The candidate may designate his ***or her*** given, first, and middle name, the initials of his ***or her*** given, first, and middle name, a nickname, or any combination thereof as the form in which ~~[his]~~ ***the candidate's*** name shall be printed on the ballot, but ~~[he]~~ ***the candidate*** shall not designate a deceptive name. If the candidate designates a nickname in place of or in combination with ~~[his]~~ ***the candidate's*** given name or the initials thereof, the nickname shall be set off with quotation marks and shall be placed immediately before his ***or her*** surname. If the candidate designates a nickname, the nickname shall be customarily related to the candidate's given

name, *or, if the nickname is not customarily related to the candidate's given name, the candidate shall submit clear and convincing evidence that the candidate has been known by the nickname for at least the 5 years immediately preceding the time of filing. If deemed sufficient by the appropriate official, 3 affidavits from voters in the district who are not related to the candidate stating that the candidate has been known by the nickname for at least 5 years may constitute clear and convincing evidence. Nicknames shall be limited to one word, except for 2-word nicknames customarily related to the candidate's given name. No candidate may designate a nickname that implies that the candidate is some other person, that constitutes a slogan or otherwise associates the candidate with a cause or issue, or that has an offensive or profane meaning.* A candidate shall include his *or her* surname in ~~[his]~~ *the* designation of the form in which ~~[his]~~ *the candidate's* name shall be printed on the ballot.

II. Every candidate for state or federal office who intends to have his *or her* name placed on the ballot for the state general election by means other than nomination by party primary shall designate in ~~[his]~~ *the* declaration of intent the form in which ~~[his]~~ *the candidate's* name shall be printed on the ballot. The candidate may designate his *or her* given, first, and middle name, the initials of his *or her* given, first, and middle name, a nickname, or any combination thereof as the form in which ~~[his]~~ *the candidate's* name shall be printed on the ballot, but ~~[he]~~ *the candidate* shall not designate a deceptive name. If the candidate designates a nickname in place of or in combination with ~~[his]~~ *the candidate's* given name or the initials thereof, the nickname shall be set off with quotation marks and shall be placed immediately before his *or her* surname. If the candidate designates a nickname, the nickname shall be customarily related to the candidate's given name, *or, if the nickname is not customarily related to the candidate's given name, the candidate shall submit clear and convincing evidence that the candidate has been known by the nickname for at least the 5 years immediately preceding the time of filing. If deemed sufficient by the appropriate official, 3 affidavits from voters in the district who are not related to the candidate stating that the candidate has been known by the nickname for at least 5 years may constitute clear and convincing evidence. Nicknames shall be limited to one word, except for 2-word nicknames customarily related to the candidate's given name. No candidate may designate a nickname that implies that the candidate is some other person, that constitutes a slogan or otherwise associates the candidate with a cause or issue, or that has an offensive or profane meaning.* A candidate shall include his *or her* surname in ~~[his]~~ *the* designation of the form in which ~~[his]~~ *the candidate's* name shall be printed on the ballot.

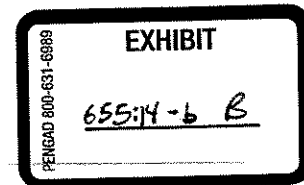
22:2 Effective Date. This act shall take effect 60 days after its passage.

(Approved: May 10, 2005)

(Effective Date: July 9, 2005)

CHAPTER 151

HB 693-FN - FINAL VERSION



20mar03... 0550h

05/22/03 1641s

2003 SESSION

03-0889

03/01

HOUSE BILL **693-FN**

AN ACT relative to the jurisdiction and constitution of the ballot law commission.

SPONSORS: Rep. Whalley, Belk 31; Rep. Giuda, Graf 13; Rep. Francoeur, Rock 85; Sen. Clegg, Dist 14; Sen. Boyce, Dist 4

COMMITTEE: Election Law

ANALYSIS

This bill changes the membership of the ballot law commission. This bill also modifies the jurisdiction and procedures of the ballot law commission and clarifies certain provisions regarding recounts.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struck through]~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

20mar03... 0550h

05/22/03 1641s

03-0889

03/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to the jurisdiction and constitution of the ballot law commission.

Be it Enacted by the Senate and House of Representatives in General Court convened:

151:1 Form of Candidate's Name on Ballot. Amend RSA 655:14-b, IV to read as follows:

IV. If the appropriate official with whom the declaration of candidacy, declaration of intent, primary petitions, or

assents to candidacy are filed does not accept them and returns them to the candidate because in the opinion of the official they do not conform to the provisions of this section, the candidate may appeal to the ballot law commission as provided in RSA ~~[665:6-b]~~ 665:9.

151:2 Election Day Morning Procedures; Statutes Posted. Amend RSA 658:29 to read as follows:

658:29 Statutes Posted. The secretary of state shall prepare and distribute copies of the following RSA sections which the selectmen shall post or cause to be posted outside the guardrail in the polling place: RSA 654:7-a, RSA 654:7-b, RSA 654:38, RSA 654:39; RSA 658:29; RSA 659:27, RSA 659:30, RSA 659:31, RSA 659:32, RSA 659:103; ***RSA 665:17***; RSA 666:4, RSA 666:5, RSA 666:8, RSA 666:12. In addition, the secretary of state shall include any other statutes or regulations that are required to be posted by state or federal law. The secretary of state may also include statutes or regulations that, in the secretary of state's judgment, would aid a voter in casting a vote or in contacting the appropriate official if the voter believes that his or her voting rights are being violated.

151:3 Number of Recounts. Amend RSA 660:3 to read as follows:

660:3 Number of Recounts. Any candidate for whom a vote was cast for any office at a state general election shall be entitled to apply for only one recount under this chapter, and the declaration made by the secretary of state under RSA 660:6 shall be final, subject to a change in the result following an appeal to the ballot law commission, as provided in RSA ~~[665:6, H]~~ ***665:8, II. If more than one candidate for the same office in the same district applies for a recount under this chapter, and a recount is completed, such applications shall not result in a second recount.***

151:4 Declaration; Certificate. Amend RSA 660:6, I to read as follows:

I. If the recount shall show that some candidate other than the one declared elected upon the original canvass of votes has the greatest number of votes cast for the office, the secretary of state shall declare said candidate to be elected; and, unless the result is changed upon an appeal taken to the ballot law commission, as provided in RSA ~~[665:6, H]~~ ***665:8, II***, such candidate shall be entitled to a certificate of election.

151:5 Declaration of Result, State Primary. Amend RSA 660:9 to read as follows:

660:9 Declaration of Result, State Primary. If the recount after a state primary election shall show that some candidate other than the one declared nominated upon the original canvass of votes has the greatest number of votes cast for the nomination, such candidate shall be declared nominated and shall be placed upon the official ballot at the following election unless appeal is taken to the ballot law commission in accordance with RSA ~~[665:4, I]~~ ***665:6, I***. If the person who applied for the recount was thereby shown to be the one chosen as the candidate of ~~[his]~~ ***the*** party, ~~[he]~~ ***the person*** shall also have any fee paid returned.

151:6 Declaration of Result, Presidential Primary. Amend RSA 660:9-a to read as follows:

660:9-a Declaration of Result, Presidential Primary. If the recount after a presidential primary election shall show that the applying candidate qualified under RSA 659:93 for at least one more delegate than the original count indicated or that such candidate did qualify for federal election funding, such candidate shall receive such funding or shall be apportioned delegates to the national party convention in accordance with RSA 659:93 unless appeal is taken to the ballot law commission in accordance with RSA ~~[665:4, I]~~ ***665:6, I***. If the person who applied for the recount was thereby shown to be entitled to federal funding or at least one more delegate under RSA 659:93, ~~[he]~~ ***the person*** shall also have any fee paid returned.

151:7 Complaints. Amend RSA 664:18, II(a) to read as follows:

(a) Issue an order requiring the violator to cease and desist from his ***or her*** violation. If the attorney general's order is not obeyed ~~[and no petition for review has been filed with the ballot law commission pursuant to RSA 665:7 within 3 days]~~, the attorney general or ~~[his]~~ ***his*** designee may petition the superior court of the county in which the violation occurred for an order of enforcement.

151:8 Ballot Law Commission. RSA 665 is repealed and reenacted to read as follows:

CHAPTER 312 (HB 475)

AN ACT PERMITTING A CANDIDATE TO DESIGNATE THE FORM IN WHICH
HIS NAME SHALL BE PRINTED ON THE BALLOT AND RELATIVE
TO THE FORM OF STATE GENERAL ELECTION BALLOTS.

Be it Enacted by the Senate and House of Representatives in General Court convened:

312:1 New Section; Designation of Name on Ballot. Amend RSA 655 by inserting after section 14-a the following new section:

655:14-b Form of Candidate's Name on Ballot.

I. Every candidate for state or federal office who intends to have his name printed upon the ballot of any party for a primary shall designate in his declaration of candidacy, or on his primary petitions and assents to candidacy, the form in which his name shall be printed on the ballot. The candidate may designate his given, first, and middle name, the initials of his given, first, and middle name, a nickname, or any combination thereof as the form in which his name shall be printed on the ballot, but he shall not designate a deceptive name. If the candidate designates a nickname in place of or in combination with his given name or the initials thereof, the nickname shall be set off with quotation marks and shall be placed immediately before his surname. If the candidate designates a nickname, the nickname shall be customarily related to the candidate's given name. A candidate shall include his surname in his designation of the form in which his name shall be printed on the ballot.

II. Every candidate for state or federal office who intends to have his name placed on the ballot for the state general election by means other than nomination by party primary shall designate in his declaration of intent the form in which his name shall be printed on the ballot. The candidate may designate his given, first, and middle name, the initials of his given, first, and middle name, a nickname, or any combination thereof as the form in which his name shall be printed on the ballot, but he shall not designate a deceptive name. If the candidate designates a nickname in place of or in combination with his given name or the initials thereof, the nickname shall be set off with quotation marks and shall be placed immediately before his surname. If the candidate designates a nickname, the nickname shall be customarily related to the candidate's given name. A candidate shall include his surname in his designation of the form in which his name shall be printed on the ballot.

III. A candidate who files more than one declaration of candidacy or declaration of intent shall designate the same form of his name to appear on each such declaration. The same form of a candidate's name shall also appear on every primary petition and assent to candidacy.

IV. If the appropriate official with whom the declaration of candidacy, declaration of intent, primary petitions, or assents to candidacy are filed does not accept them and returns them to the candidate because in the opinion of the official they do not conform to the provisions of this section, the candidate may appeal to the ballot law commission as provided in RSA 665:6-b.

312:2 Reference Added. Amend RSA 665:6-a, II to read as follows:

II. The ballot law commission shall also meet at such other times as may be necessary as provided in RSA 655:31, RSA 665:6, II, RSA 665:6-b, and RSA 665:7.

312:3 New Section; Right to Appeal Added. Amend RSA 665 by inserting after section 6-a the following new section:

EXHIBIT
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CHAPTER 313

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665:6-b Name on Ballot Disputes. The ballot law commission shall hear and determine all disputes arising over the form of his name which a candidate designates to be printed on the state primary and state general election ballot, as provided in RSA 655:14-b. The decision of the ballot law commission shall be final as to questions of both law and fact, and no court shall have jurisdiction to review the decision.

312:4 Domicile Requirement Removed from General Election Ballots. Amend RSA 656:4 to read as follows:

656:4 Name. Every state general election ballot shall contain the name of each candidate who has been nominated in accordance with the election laws, except as hereinafter provided, and shall contain no other name except party appellations. The names and addresses of the presidential electors shall not be printed on the ballot, but, in lieu thereof, the names of a party's candidates for president and vice-president shall be printed thereon under the designation for "President and Vice-President of the United States". If a nomination has been made by nomination papers, the words "Nom. Papers" shall be added to the name of the political party.

312:5 Effective Date. This act shall take effect 60 days after its passage.

[Approved May 29, 1989.]

[Effective Date July 28, 1989.]

CHAPTER 313 (HB 486)

AN ACT RELATIVE TO CLEARING LAND AND CUTTING TIMBER.

Be it Enacted by the Senate and House of Representatives in General Court convened:

313:1 Cutting of Timber; Exception Removed. Amend the introductory paragraph of RSA 224:44-a to read as follows:

No more than 50 percent of the basal area of trees shall be cut, or otherwise felled, leaving a well distributed stand of healthy, growing trees, within 150 feet of any great pond, navigable river, or any other standing body of water 10 acres or more in area, or public highway or within 50 feet of any other stream, river or brook which normally flows throughout the year, unless the person who pushes over, cuts, saws, or operates or causes to be pushed, cut, sawed, or operated said trees, obtains the prior written consent of the director of the division of forests and lands or his agents. Basal area means the cross sectional area of a tree measured at a height of 4-1/2 feet above the ground, usually expressed in square feet per acre for a stand of trees.

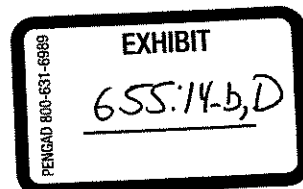
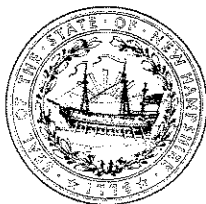
313:2 New Paragraphs; Cutting of Timber; Exemptions and Enforcement. Amend RSA 224:44-a by inserting after paragraph III the following new paragraphs:

IV. Timber cutting for land conversion purposes, other than timber growing and forest uses, shall be exempt from this section if those persons intending to convert the use of the land have secured all required local permits including, but not limited to, building, subdivision or zoning permits, excavation permits, or site plan approval necessary for the use to which the land will be converted, and are able to furnish proof of such permits.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

KELLY A. AYOTTE
ATTORNEY GENERAL



MICHAEL A. DELANEY
DEPUTY ATTORNEY GENERAL

News Release

RELEASED BY: Attorney General Kelly A. Ayotte

SUBJECT: Voting Rights Act – Submission of a request for preclearance of changes to New Hampshire Voting laws and procedures

DATE: June 10, 2005

RELEASE TIME: Immediate

Attorney General Kelly A. Ayotte announces the submission of requests for preclearance of changes made to the election laws in New Hampshire to the Federal Department of Justice. Preclearance submissions will address changes made to New Hampshire's election laws since jurisdictions in the State became subject to preclearance.

Ten New Hampshire towns are subject to section 5 of the federal Voting Rights Act. Changes to New Hampshire election laws that affect any of these ten towns must be submitted for review by either the Federal Department of Justice or the Federal District Court for Washington D.C. The federal Department of Justice will review the changes to New Hampshire's election laws to ensure that the changes do not have the effect of denying or abridging the right to vote on account of race or color, or membership in a language minority group. Changes to New Hampshire redistricting statutes have been submitted to, and approved by, the U.S. Justice Department since the 1980 census. Federal regulations require that the public be notified that the State has filed a request for preclearance and that the submission be available for public inspection.

Copies of each submission by the Attorney General for the State of New Hampshire are available at the office of the Attorney General at 33 Capitol Street, Concord New Hampshire, 03301. Each document will also be made available at the Attorney General's Office web site at:

<http://www.doj.nh.gov/elections/>

Attorney General Ayotte and the federal Department of Justice invite persons interested in this submission to submit comments and information, in writing or by telephone, to the Voting Section of the Federal Department of Justice, Civil Rights Division, at the earliest possible date to ensure that they may be considered during the preclearance review time period. Telephone 1-800-253-3931 or (202) 307-2385 or write Chief, Voting Section, Civil Rights Division, Room 7354 – NWB, Department of Justice, 950 Pennsylvania Ave., NW, Washington, DC 20530. The envelope and first page should be marked "Comment under section 5." Additional information on the Voting Rights Act and the preclearance process can be obtained at the web site of the Federal Department of Justice at:

<http://www.usdoj.gov/crt/voting/index.htm>

The New Hampshire Attorney General's Office Voting section can be contacted at:

<http://www.doj.nh.gov/elections/>
New Hampshire Toll Free 1-866-8868-3703
or 1-866-VOTER03
electionlaw@doj.nh.gov